(1) (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(C.G)

CIVIL REVISION No. 56 /2006 Single Bench

PETITIONER
DEFENDANT

Harsh Kumar Kurm (Bhoi)
Aged about 32 years
S/o Neelkanth Kurm, R/o Qr. No. 28/E Cross street No. 1, Sector 1, Bhilai Nagar, District Durg
Present Address Idgah Bhatha, Gali No. 3, Near Swami Vivekanand Ashram, Raipur, Tahsil and District Raipur (C.G.)

R.R. No. 1008/16
Presented by Shri 18/8 Verma
dated 18/4/06

VERSUS

RESPONDENT
PLAINTIFF

Smt. Itishri aged about 24 yrs.
D/o Arun Gautam, R/o Qr. No. 28/E, Cross Street No. 1, Sector-1, Bhilai Nagar, Tahsil and District Durg (C.G.)

CIVIL REVISION UNDER SECTION 115 OF THE CODE OF CIVIL PROCEDURE

Being aggrieved by the order dated 20.2.2006

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक C.R. 56/2006 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	25.04.2006 Shri S.C. Verma, learned counsel for the applicant. Heard on admission. The applicant has preferred the instant civil revision against the impugned order dated 08.03.2006 passed in Civil Suit No. 14-A/06 and by which while adjudicating the application under Order 7 Rule 11 of the C.P.C. filed on behalf of the applicant/defendant for dismissing the suit preferred by the respondent being not maintainable in view of the judgment by which consent decree of divorce under Section 13-B of the Hindu Marriage Act (hereinafter referred to as 'the Act') was passed in earlier suit between the same parties, the learned Third Additional Judge, Family Court, Durg dismissed the said application. Learned counsel for the applicant submits that in the earlier proceedings the Seventh Additional District Judge (FTC), Durg vide its order dated 25.10.2005 passed in Civil Suit No. 351-A/04, has passed a decree of dissolution of marriage under Section 13-B of the Act and further awarded a permanent alimony at the rate of Rs. 2,000/- per month to the respondent till she remarriages. He further submits that the earlier decree was passed by the learned Additional District Judge after ascertaining the factum of consent between parties and therefore, it was not open to the parties to the consent decree to re-agitate the matter on the ground that consent was obtained by practicing fraud. I have heard learned counsel for the applicant.	

[पीछे देखिये

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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	The non-applicant filed the suit before the Family Court for declaration on the ground that her consent was obtained by the applicant by practicing fraud. It is open to the parties to put forth the facts whether the consent obtained by the applicant in the divorce proceedings was in fact a free consent or the same was obtained by practicing fraud and the suit filed by the non-applicant before the Family Court cannot be dismissed at the threshold. There is no substance in the instant revision and the same is liable to be dismissed at the motion stage itself and accordingly, it is dismissed. However, looking to the fact that the parties are litigating since long the Court below is directed to expedite the matter. **Sd/-** **Dhirendra Mishra** **Judge**	

Khan

[पीछे देखिये